UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF INDIANA TERRE HAUTE DIVISION

James D. Wood)	CASE NO. 17-80066-JJG-7A
and Chasity M. Wood)	
Debtors)	
)	

AMENDED MOTION TO AVOID JUDICIAL LIEN

The Debtors hereby move the Court pursuant to 11 U.S.C. §522(f) to avoid the judgment lien of Thomas Garage Door Sales, Inc. on the following described property:

Physical Address: 48 Briarwood Court, Greencastle, IN 46135

<u>Legal description</u>: Lot Number 48 Replat of Lots Numbered 46, 47, 48 in Woods Edge, Phase One, an Addition to the City of Greencastle, as per plat thereof recorded in Plat Book 13, pages 135-137; Also recorded January 23, 2002 as Instrument No. 2002003646, in the office of the Recorder of Putnam County, Indiana.

Subject to all rights-of-way, easements and restrictions. Subject to all taxes now a lien and to become a lien thereon.

In support of said Motion, the Debtors submit the following information:

- 1. The Debtors filed their Chapter 7 bankruptcy on or about February 15th, 2017.
- 2. The real estate is held by the Debtors, James and Chasity Wood as tenants by the entireties, but they have joint debt, thus the exemption of \$19,300 was taken by each Debtor.
- 3. The judgment which is the subject of this Motion is held by Thomas Garage Door Sales, Inc. The amount of the judgment is \$3,046.00 as of November 13th, 2015, plus any other costs/interest, if ordered.
- 4. The creditor, Thomas Garage Door Sales, Inc., obtained a judgment which is a lien on the real property described above. That judgment was obtained pre-petition under cause# 67D01-1509-SC-000672. The default judgment was granted on or about November 13th, 2015 in the Putnam County Superior Court, see the attached Exhibit "A".
- 5. The amount of debt owed as of the date of filing on the real property located at 48 Briarwood Court, Greencastle, IN was \$86,766.00 by way of a 1st mortgage through Chase Mortgage

and a 2nd mortgage through North Salem State Bank in the sum of \$24,461.00. The total debt associated with the 1st mortgage and the 2nd mortgage is \$111,227.00 as of the date of filing.

- 6. That the value of the subject collateral is: \$150,000.00 (per the Petition).
- 7. That the value of the real property is \$150,000 the total mortgages \$111,227.00 = \$38,773.00 total equity in the real property.
- 8. The amount of exemption on the real estate to which the Debtors are entitled is \$38,600.
- 9. That \$38,773.00 equity the Debtor's exemption \$38,600 = \$173.00 unexempted equity of the home (superior lien to Twin C Inc. d/b/a Dave's Heating & Cooling). The judgment of record impairs the Debtor's exemption for which the Debtors request this court to avoid.
- 10. The remaining equity is \$38,600 which is exempt.
- 11. This real estate is subject to other filed judgment liens under causes listed on the attached Exhibit "B" for which the Debtors are filing Motions for Relief contemporaneously with this Motion.
- 12. The Property has equity which been claimed as exempt in the amount of \$38,600. The lien impairs an exemption of the Debtors and is subject to avoidance under 11 U.S.C. § 522(f) with \$173 non-exempt which will be paid to Twin C Inc., d/b/a Dave's Heating & Cooling who had a senior judgment lien under cause# 67C01-15808-PL-000235.

NOTICE: Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to enter an order avoiding the (judicial) lien, or if you want the court to consider your views on this Motion, then you or your attorney must file with the court a written objection explaining your position no later than 21 days from the date of service of this document.

Those not permitted to file electronically must deliver any objection by the U.S. mail, courier, overnight/express mail, or in person at:

Evansville and Terre Haute 352 Federal Bldg. 101 NW M.L. King Jr. Blvd. Evansville, IN 47708 If you mail your objection to the court, you must mail it early enough so the court will receive it on or before the 21-day deadline (21 days from the date of service of this Motion).

You must also send a copy of your objection to:

James H. Holder, Jr.

Attorney at Law

Bankruptcy Trustee

111 West Walnut Street

PO Box 1206

Greencastle, IN 46135 Greenwood, IN 46142

Matthew Thomas Barr

Rubin & Levin, PC

135 N. Pennsylvania Street, Suite 1400

James T. Young
Rubin & Levin, PC

Indianapolis, IN 46204 135 N. Pennsylvania Street, Suite 1400

Indianapolis, IN 46204

Robert C. Perry US Trustee

Robert C. Perry, Attorney at Law Office of US Trustee

205 W. Main Street 101 W. Ohio Street, Suite 1000

Plainfield, IN 46168 Indianapolis, IN 46204

If you or your attorney do not take these steps, the court may decide that you do not oppose an order avoiding the judicial lien, and may enter an order granting that relief.

WHEREFORE, the Debtors move the Court to enter an order avoiding creditor's judicial lien and granting such other relief as appropriate.

Respectfully Submitted,

James H. Holder, Jr. 17053-67

111 West Walnut Street Greencastle, IN 46135

765-653-0500 765-301-9319 fax

law@jamesholderlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on May _____, 2019 the foregoing document was mailed via certified mail and eserved to the following:

Thomas Garage Door Sales, Inc. ATTN: An Officer 1019 Shadowlawn Avenue Greencastle, IN 46135

James H. Holder, Jr. 17053-6

U.S. Trustee <u>ustpregion10.in.ecf@usdoj.gov</u>

Lou Ann Marocco trustee@maroccolawindy.com

James T. Young james@rubin-levin.net

Randy C. Eyster3
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